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**Commonwealth of Puerto Rico
FIRE DEPARTMENT OF PUERTO RICO**

**REGULATION TO ESTABLISH THE PROVISIONS OF THE REDUCED CIGARETTE
IGNITION PROPENSITY MEASURING ACT.**

14 of May, 2014

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE NO.</u>
1. ARTICLE 1: TITLE	1
2. ARTICLE 2: LEGAL GROUNDS	1
3. ARTICLE 3: PURPOSE	1
4. ARTICLE 4: DEFINITIONS	1
5. ARTICLE 5: APPLICABILITY	2
6. ARTICLE 6: PROHIBITION	2
7. ARTICLE 7: TESTS	3
8. ARTICLE 8: CERTIFICATIONS AND PRODUCT CHANGES	4
9. ARTICLE 9: IDENTIFYING MARKS ON CIGARETTE PACKS	5
10. ARTICLE 10: PENALTIES	6
11. ARTICLE 11: INSPECTIONS	6
12. ARTICLE 12: SALE OUTSIDE OF PUERTO RICO	6
13. ARTICLE 13: SEVERABILITY	7
14. ARTICLE 14: GOVERNING LAW	7
15. ARTICLE 15: SCOPE OCCUPIED BY FEDERAL LAW	7
16. ARTICLE 16: EFFECTIVENESS	7

**COMMONWEALTH OF PUERTO RICO
FIRE DEPARTMENT OF PUERTO RICO**

Article 1: Title

This regulation shall be known as the **REGULATION TO ESTABLISH THE PROVISIONS OF THE REDUCED CIGARETTE IGNITION PROPENSITY MEASURING ACT**

Article 2: Legal Grounds

This Regulation is adopted pursuant to Act 119 of June 16, 2012, known as the Reduced Cigarette Ignition Propensity Measuring Act, Act 43 of June 21, 1988, as amended, known as the Fire Department of Puerto Rico Act and in accordance with the provisions of Act No. 170 of August 12, 1988, as amended, known as "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico."

Article 3: Purpose

Cigarette smoking in a negligent manner has been the cause, in many cases, of fires that have cost lives and destroyed property. This occurs when a person falls asleep with a lit cigarette, causing an incident.

For this purpose, the "American Society for Testing and Materials" (A.S.T.M.) has developed a Standard Test Method for Measuring the Strength of Cigarette Ignition ("Standard Test Method for Measuring the Ignition Strength of Cigarettes" – A. S. T. M. E-2187-04). Under the terms of the A.S.T.M, cigarettes with reduced ignition that demonstrate an improved test performance are less likely to cause fires in beds and upholstered furniture, including sofas and mattresses.

The protection of life and property is one of the fundamental purposes of the Government. Therefore, the Legislature has adopted for this jurisdiction the "Standard Test Method for Measuring the Strength of Cigarette Ignition", developed by A.S.T.M by passing the Reduced Cigarette Ignition Propensity Measuring Act (the "Act").


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The Fire Department of Puerto Rico is the entity delegated by the Act to develop regulations for the implementation of provisions of the Act that meets the A. S. T. M. E2187-04 and with any revision thereof.

Article 4: Definitions

1. "Agent". - Any person authorized by the Treasury Department of Puerto Rico to purchase and set stamps on cigarette packs.
2. "Cigarette". - any roll of tobacco wrapped in any paper or any substance not containing tobacco; or any roll of tobacco wrapped in any paper or any substance that contains tobacco and that by its appearance, by the type of tobacco used in the filler, or by its packaging or labeling, can be offered to consumers or purchased by them as a cigarette, as per the provisions of the Internal Revenue Code of the United States, 26 U. S. C. 5702 (b) and in the "Federal Cigarette Labeling and Advertising Act", 15 U. S. C. 1332 (1). Excluded are handmade artisan cigarettes, as defined by the Secretary of Treasury by regulation.

3. "Retailer". - any individual or legal entity other than a manufacturer or wholesales who deals with the retail sale of cigarettes or tobacco products.
4. "Distributor". - any individual or legal entity that imports tobacco products for distribution and marketing in Puerto Rico, for which that individual or entity will have to meet the requirements of this Act.
5. "Manufacturer". - any entity that manufactures or otherwise produces cigarettes or that has cigarettes manufactured or produced and whose purpose is that they are sold in Puerto Rico.
6. "Wholesaler". - any individual or legal entity other than a manufacturer that sells cigarettes or tobacco products to retailers or other persons for purposes of resale, and any individual or legal entity that owns one or more vending machines for tobacco products, and operates them or maintains them on premises that are owned by any other person or are populated by them.
7. "Act". - Act 119 of June 16, 2012, known as the Reduced Cigarette Ignition Propensity Measuring Act.
8. "Control and quality assurance program". - laboratory procedures implemented to ensure that operator bias, systematic and non-systematic methodology errors and equipment-related problems do not affect the test results. This program will ensure that the value of testing repeatability remains within the required repeatability values and that are set forth in Subsection (6) of Section A of Article 3 of the Act for all tests done to certify cigarettes in accordance with the Act.
9. "Regulations". - rules developed pursuant to Act 119 of June 16, 2012, known as the Reduced Cigarette Ignition Propensity Measuring Act.
10. "Repeatability". - range of values in which the repeated test results of cigarettes, carried out in the same laboratory, will be found to be 95% of the time
11. "Sale". - any title transfer or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means or agreement for that purpose. Apart from cash or credit sales, the delivery of cigarettes as samples, prizes or gifts, and the exchange of cigarettes in exchange for a form of payment other than cash, shall be considered a sale.

Article 5: Applicability

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- A. The provisions of this Regulation shall apply to and cover the procedures and collection for the granting of licenses and/or permits by the Fire Department of Puerto Rico to companies and/or individuals engaged in the sale of cigarettes.
 - B. This regulation shall supersede any prior letter, authorization or notification from any member of the Fire Department of Puerto Rico authorizing any individual or legal entity the offer to sell cigarettes.

Article 6: Prohibition

- A. It will be prohibited to sell cigarettes, offer them for sale or be sold to residents of Puerto Rico unless the cigarettes have been tested for conformity by the manufacturer and a certificate has been registered at the offices of the Chief of the Fire Department of Puerto Rico, as per the provisions of Articles 8 and 9 of this Regulation.

B. The requirements of Section A of this Article shall not prohibit:

- 1) wholesalers or retailers from selling their existing inventory of cigarettes on the date of entry into force of this Regulation, or after it, if the wholesaler or retailer can demonstrate that the state tax stamps were affixed to the cigarettes before the date of entry into force, and that the existing cigarette inventory was acquired before the date of entry into force, and in amounts comparable to the inventory that had been purchased during the same period of the previous year; or
- 2) the sale of cigarettes for the sole purpose of doing a market survey. For the purposes of this section, the term "market survey" means the evaluation of the cigarettes made by the manufacturer (or under its control and direction) in order to assess its acceptance among consumers, using only the number of cigarettes reasonably needed for such study.

Article 7: Test

A. The tests that the cigarettes must undergo must meet the following requirements:


- 1) Testing of cigarettes shall be carried out in accordance with the legislation laid out by the "American Society of Testing and Materials" ("A.S.T.M. E-2187-04"), "Standard Method for measuring the strength of cigarette ignition".
- 2) The test shall be conducted on 10 layers of filter paper.
- 3) No more than 25% of the cigarettes assessed in the required test under this Article can demonstrate full cigarette burns ("full-length burns").
- 4) The standard of performance required by this Article shall only apply to an entire testing process.
- 5) Written certifications shall be based on the tests performed by a laboratory that has been accredited in accordance with I. S. O. / I. E. C. 17025 standard of the "International Organization for Standardization" ("I. S. O."), or other comparable accreditation model that the Chief of the Fire Department of Puerto Rico may require, from time to time.
- 6) Laboratories accredited under Section (5) of this Article shall implement a control and quality assurance program, which shall include a process for determining the value of repeatability of the test results, which shall not exceed 0.19.
- 7) This Article does not require additional tests to be taken if the cigarettes are submitted for testing for any other purpose in a manner consistent with the Act.
- 8) Testing conducted or sponsored by the Fire Chief to determine compliance of the cigarettes with performance standards required by this Article shall be conducted in accordance with the terms thereof.

B. The different types of cigarettes specified in the certification, that shall be submitted in accordance with Article 8 of this Regulation, and that use paper sheets with low permeability to meet the performance standard set forth in this Article, shall have at least two identical sheets around the tobacco column. At least one entire sheet will be placed at least 15 mm from the lighting end of the cigarette. In cigarettes whose sheets are placed according to a design, there

will be at least two sheets fully positioned at least 15 mm from the lighting end and 10 mm from the filter end of the tobacco column or 10 mm from the end bearing the monogram for unfiltered cigarettes.

- C. The manufacturer of a cigarette that the Chief of the Fire Department of Puerto Rico determines cannot be submitted for testing according to the method prescribed in Subsection (1) of Section A of this Article must propose another testing method and performance standard for assessment by the Fire Chief. Upon approval of the proposed method and the Fire Chief determines that it complies with that established by the Act, the manufacturer shall use this test method and performance standard to certify those cigarettes in accordance with Article 8 of this Regulation. If the Fire Chief determines that another State has enacted standards with testing methods similar to those of the Act, it can authorize the manufacturer to use that alternative method in order to certify that cigarette in Puerto Rico. If the Fire Chief does not accept the testing method submitted by the manufacturer, he/she will have to demonstrate that the alternative test does not meet the standards set forth in the Act and in the A. S. T. M. E-2187-04 and any revision thereof. All other requirements of this Article shall apply to the manufacturer.
- D. Each manufacturer shall retain copies of the reports with the results of tests conducted on all the different types of cigarettes offered for sale for a period of three (3) years and shall deliver copies of the reports to the Fire Chief and to the Attorney General of Puerto Rico upon receiving a written request. Any manufacturer that does not provide copies of the reports within a period of sixty (60) days after having received the written request will be subject to a fine not exceeding ten thousand dollars (\$10,000) for each day that transpires after the sixtieth day.
- E. The Fire Chief may adopt a subsequent Standard Test Method for Measuring the Strength of Cigarette Ignition ("Standard Test Method for Measuring the Ignition Strength of Cigarettes") from the A.S.T.M, if it finds that the subsequent method does not result in a change in the percentage of full cigarette burns that the same cigarette would exhibit assessed in accordance with A. S. T. M. E2187-04 and the performance standard of paragraph (3) of Section A of this Article.

Article 8. Certifications and Product Changes

- A. Each manufacturer shall submit the Chief of the Fire Department of Puerto Rico a written certification attesting that:
 - (1) Each type of cigarette listed in the certification has been submitted for testing in accordance with Article 7 of this Regulation; and
 - (2) Each type of cigarette listed in the certification meets the performance standards set forth in Article 7 of this Regulation.
-  B. Each cigarette listed in the certification shall be described in the following manner:
 - (1) brand or trade name on the pack;
 - (2) style;
 - (3) length in millimeters;
 - (4) circumference in millimeters;

- (5) taste;
 - (6) with or without filter;
 - (7) description of the pack;
 - (8) identification marks, according to Article 9 of this Regulation;
 - (9) the name, address and phone number of the laboratory, if different from those of the manufacturer that conducted the tests;
 - (10) date the tests were conducted;
 - (11) product UPC Code; and
 - (12) percent of complete cigarette burns in the test.
- C. The Fire Chief shall make certifications available to the Attorney General for the purposes set forth by this Regulation and the Act and the Secretary of Treasury in order to ensure compliance with this Regulation and the Act.
- D. Each type of cigarette that is certified under this Regulation shall undergo recertification every three (3) years, except as provided in Section G of this Article.
- E. Each certification shall be filed together with the appropriate form provided by the Fire Chief titled Certification on Standard Test Method for Measuring the Strength of Cigarette Ignition and the check required by Section F of this Article to the Finance Office of the Fire Department, Lee Building, 2432 Loiza Street, Esq. Doncella, Punta Las Marías, San Juan, Puerto Rico 00914. The form must be filled out for each Certification. Once the form is submitted with the Certification, the Fire Chief will verify that the Certification meets the requirements of this Regulation and once that is completed, will proceed to confirm the registration required by Section C of this Article 8.
- F. The manufacturer must submit a check to the Fire Chief in the amount of two hundred fifty dollars (\$250.00) for each type of cigarette certified in the form, payable to the Secretary of Treasury/Fire Department. The Fire Chief is authorized to adjust the rate annually in order to ensure that it covers actual costs related to the activities of processing, testing, implementation and monitoring processes required by the Act.
- G. If a manufacturer has certified a cigarette according to this Article and then performs any change thereto that may alter compliance with the standard of reduced ignition required by this Regulation, that cigarette will not be sold or offered for sale in Puerto Rico until the manufacturer submits the cigarette for new testing, pursuant to Article 7 of this Regulation. Any modified cigarette that does not meet the performance standard set forth by this Regulation cannot be sold in Puerto Rico.

Article 9: Identifying Marks on Cigarette Packs

- A. Cigarettes that are certified by the manufacturer in accordance with Article 8 of this Regulation shall be identified with a mark to indicate compliance with the requirements of Article 7 of this Regulation. The mark shall have a size of 8 points or more and consist of the letters "FSC" ("Fire


Standard Compliant", by its initials in English), which shall be printed, stamped, engraved or embossed on the pack near the UPC code.

- B. The manufacturer may only use one mark, which shall be applied uniformly on all packages, including, without limitation, the packs, cartons, boxes and brands marketed by the manufacturer.
- C. Manufacturers that certify cigarettes in accordance with Article 8 of this Regulation shall provide copies of certifications to the Fire Chief. Wholesalers, dealers and retailers will allow the Fire Chief, the Secretary of Treasury, the Attorney General and their respective employees to inspect identification marks applied on cigarette packs in accordance with this Regulation.

Article 10: Penalties

- A. Any manufacturer, wholesaler, dealer or other person or entity who knowingly sells or offers to sell cigarettes in ways other than retail sale in violation of Article 6 of this Regulation and the Act shall incur in an administrative fault and shall be subject to paying a fine of one hundred (100) dollars for each pack sold or offered for sale. In no case shall the fine exceed ten thousand (10,000) dollars.
- B. Any retailer who knowingly sells or offers to sell cigarettes in violation of Article 6 of this Regulation and Act shall be guilty of an administrative fault and shall be subject to paying a fine of one hundred (100) dollars for each pack sold or offered for sale. In no case shall the fine exceed ten thousand (10,000) dollars.
- C. Any manufacturer, retailer, corporation, partnership, sole proprietorship, company or limited company engaged in the manufacture of cigarettes that knowingly make false certifications under Article 7 of this Regulation shall be guilty of an administrative offense and shall be subject to paying a fine of ten thousand (10,000) dollars for each false certification.

Article 11: Inspections

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- A. The Attorney General, Secretary of Treasury, Superintendent of the Police and the Fire Chief, as well as their authorized representatives, officials and agents, are authorized to examine and inspect accounting books, documents, invoices, shipping documents relating to the importation, distribution and sale of cigarettes, as well as buildings, warehouses, vehicles and other locations where cigarettes are received, stored, transported and distributed, in order to verify compliance with the provisions of this Regulation and the Act.
 - B. When an officer or agent of the Justice Department, Treasury Department, Police Force or Fire Department of Puerto Rico discovers cigarettes for which no certification has been submitted as required by Article 8 of this Regulation, or (ii) that have not been identified with a mark as required by Article 9 of this Regulation, that official and/or agent shall be authorized and shall have the authority to seize and take possession of those cigarettes. Cigarettes seized under this Article shall be destroyed, provided that, prior to the destruction of any cigarette seized as provided herein, the owner of the cigarette trademark rights has been permitted to inspect them.

Article 12: Sale outside of Puerto Rico

Nothing in this Regulation shall be construed as prohibiting the sale or offer of sale of cigarettes outside Puerto Rico's territory that do not comply with the provisions of this Regulation and the Act, if the cigarettes are or will be stamped for sale in any State of the United States of America or packaged for sale

outside of the United States and that person has taken reasonable measures to ensure that those cigarettes will not be sold or offered for sale to persons who are in Puerto Rico.

Article 13: Severability

If any provision, clause, Article or Section of this Regulation were to be declared unconstitutional or invalid by a Court with jurisdiction, such judicial determination shall not affect, impair or invalidate the remaining provisions.

Article 14: Governing Law

This Regulation shall comply with and shall be interpreted in a manner consistent with the laws and regulations promulgated by the United States of America governing the industry; it must also be interpreted in a manner consistent with the laws and regulations of the United States of America that have been promulgated to measure reduced cigarette ignition.

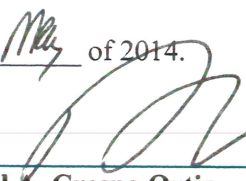
Article 15: Scope Occupied by Federal Law

This Regulation shall be void if a federal standard for reduced propensity in cigarette ignition is adopted and becomes effective.

Article 16: Effectiveness.-

This Regulation shall become effective thirty (30) days after being filed with the Department of State.

In San Juan, Puerto Rico, today, the 14 of May of 2014.



Angel A. Crespo Ortiz
Chief
Puerto Rico Fire Department

